

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9383 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

CHANDRASINH DILUBHA SOLANKI

Appearance:

MR HARDIK C RAWAL for Petitioner

MR PJ KANABAR for Respondent No. 1

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 13/11/98

ORAL JUDGEMENT

RULE.

Heard the learned Advocates for the parties. The respondent-workman was found guilty by the domestic enquiry and as such the competent authority inflicted punishment of dismissal from service. He preferred appeal against the said order, which was rejected. The respondent-workman raised industrial dispute, which

culminated in Reference to the Labour Court, Junagadh. The Labour Court did not interfere so far as the finding that the respondent is guilty of misconduct is concerned. However, it was directed that the workman be reinstated with 35% backwages. It is contended by Mr Hardik Raval, learned Advocate that on earlier occasion also the respondent-workman was found indulging in the same kind of misconduct. Mr P J Kanabar, learned Advocate appearing for the respondent-workman submits that the respondent workman has already been deprived of 65% of the backwages which itself is a harsh punishment.

2. Having heard the learned Advocates for the parties, I find an apparent error in the order of the Labour Court, inasmuch as on having found no infirmity on the finding of misconduct, the respondent workman has not at all been punished. Non-payment of backwages cannot be considered as punishment.

3. In view of the aforesaid, the impugned award is modified to the extent that the penalty of stoppage of three increments with cumulative effect is inflicted on him. He will also not be entitled to the backwages. So far as the 35% backwages is concerned, the same is also hereby quashed and set aside. In the result, the respondent workman shall be reinstated with penalty of stoppage of three increments with cumulative effect. He will not be entitled to backwages. Mr Raval, learned Advocate for the petitioner states that the respondent workman shall be reinstated within a period of six weeks. Rule is partly made absolute to the aforesaid extent.

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msp.